IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.R. No.1783 of 2007 (O&M)
Date of decision:25.9.2007

Chamkaur Singh **.....Petitioner**

Versus

Amandeep Kaur & anr. **.....Respondent**

Present: Mr. D.R. Singla, Advocate for the petitioner.

S.S. SARON, J.

Heard counsel for the petitioner.

The criminal revision petition has been filed by the husband against the order dated 13.3.2007 passed by the learned Chief Judicial Magistrate, Barnala whereby interim maintenance has been awarded to the respondents in proceedings under Section 125 Cr.P.C.

The marriage between Chamkaur Singh, the petitioner and Amandeep Kaur, respondent No.1 was solemnised on 17.9.2004. A female child Amoldeep Kaur (respondent No.2) was born from the said marriage.

Learned counsel for the petitioner has submitted that the marriage between the parties was not successful and therefore, the same was dissolved on 13.10.2005 before the Panchayat. A Panchayat Divorce Deed dated 13.10.2005 and a receipt regarding Istri Dhan received by respondent No.1 were written and both the parties signed the same along with other members of the Village Panchayat. It is submitted that respondent No.1 has filed the present petition under Section 125 Cr.P.C claiming maintenance despite the Panchayat Divorce Deed. It is also submitted that in fact respondent No.1 has remarried one Jugraj Singh s/o Malkiat Singh and this fact was admitted by respondent No.1 in a complaint filed against the petitioner. Along with revision petition, a criminal misc.

application has been filed under Section 5 of the Limitation Act seeking condonation of delay of 104 days in filing the revision petition.

After hearing learned counsel for the petitioner and perusing the record, it may be noticed that the petitioner claims that the respondents are not entitled to maintenance as the marriage between the petitioner and respondent No.1 has been dissolved by way of a Panchayat Divorce Deed. Besides, respondent No.1 is stated to have remarried.

After giving my thoughtful consideration to the matter, it may be noticed that the contentions as raised by learned counsel for the petitioner are to be considered and gone into by the learned trial Magistrate after evidence has been led. At present only interim maintenance has been fixed. It is yet to be shown by leading evidence as regards the effect of the Panchayat Divorce Deed as also its validity in the eyes of law. Besides, the factum of second marriage of respondent No.2 is yet to be proved by leading evidence. This Court in exercise of its inherent jurisdiction under Section 482 Cr.P.C. is not to embark upon an enquiry into the veracity of the allegations as made or record a finding on the basis of averments as made. The same is the function of the trial Court after recording evidence. This Court is not to reduce its status to that of the trial Court. Therefore, it would be appropriate if the petitioner raises the contentions and grounds as have been raised in the present petition before the learned trial Court.

In the circumstances, no ground is made out for interference with the order dated 13.3.2007 passed by the learned Chief Judicial Magistrate, Barnala. Since the matter has been considered on merits and no ground has been found to have been made out for interference, the question of delay in filing the criminal revision petition is only academic.

In view of the above, the criminal revision petition is dismissed.

September 25, 2007 **(S.S. SARON)**
ps **JUDGE**